

CHAPTER 147. DISPUTE RESOLUTION--AGREEMENTS, SETTLEMENTS, COMMUTATIONS

§147.1. Definitions.

The terms "agreement" and "settlement" have the meanings defined in the Texas Workers' Compensation Act, §1.03.

The provisions of this §147.1 adopted to be effective April 25, 1991, 16 TexReg 2097.

§147.2. Form.

- (a) A settlement or a written agreement shall be on a form prescribed by the commission.
- (b) Settlements shall be prepared on Form TWCC-25, "Benefit Dispute Settlement."
- (c) Written agreements shall be prepared on Form TWCC-24, "Benefit Dispute Agreement."

The provisions of this §147.2 adopted to be effective April 25, 1991, 16 TexReg 2097.

§147.3. Execution.

- (a) In addition to the parties, the employee's representative, if any, shall sign the written agreement or settlement.
- (b) An employee's representative shall not sign a written agreement or settlement on behalf of the employee except upon a finding of extraordinary circumstances by the director of the division of hearings.
- (c) The insurance carrier's representative shall sign a written agreement or settlement as the agent of the insurance carrier, and the insurance carrier shall be bound by the written agreement or settlement as provided by the Texas Workers' Compensation Act.

The provisions of this §147.3 adopted to be effective April 25, 1991, 16 TexReg 2097.

§147.4. Filing Agreements with the Commission; Effective Dates.

- (a) An agreement reached before a benefit proceeding has been scheduled may be reduced to writing and sent to the commission field office handling the claim. If the parties include a request for commission approval, the agreement is effective and binding on the date approved by the commission.
- (b) A written agreement reached after a benefit proceeding has been scheduled, whether before, during, or after the proceeding has been held, shall be sent or presented to the presiding officer. The presiding officer will review the agreement to ascertain that it complies with the Texas Workers' Compensation Act and these rules; if so, sign it, and furnish copies to the parties. A written agreement is effective and binding on the date signed by the presiding officer.
- (c) An oral agreement reached during a benefit contested case hearing and preserved in the record is effective and binding on the date made.
- (d) A signed written agreement, or one made orally, as provided by subsection (c) of this section, is binding on:

- (1) a carrier and a claimant represented by an attorney through the final conclusion of all matters relating to the claim, whether before the commission or in court, unless set aside by the commission or court on a finding of fraud, newly discovered evidence, or other good and sufficient cause; and
 - (2) a claimant not represented by an attorney through the final conclusion of all matters relating to the claim while the claim is pending before the commission, unless set aside by the commission for good cause.
- (e) Breach of an agreement approved by the commission, done knowingly, is a Class C administrative violation, with a penalty not to exceed \$1,000.

The provisions of this §147.4 adopted to be effective April 25, 1991, 16 TexReg 2097.

§147.5. Filing Settlements with the Commission; Effective Dates .

- (a) A settlement reached before a benefit proceeding has been scheduled shall be sent to the commission field office handling the claim.
- (b) A settlement reached after a benefit proceeding has been scheduled, whether before, during, or after the proceeding has been held, shall be sent or presented to the presiding officer.
- (c) The commission employee receiving a settlement will sign it, mark it with the date received, and forward it to the director of the division of hearings.
- (d) A properly completed and executed settlement shall be deemed received by the director of the division of hearings on the second day after it is filed with any commission field office, as provided by subsection (a) of this section, or any presiding officer, as provided by subsection (b) of this section.
- (e) The director of the division of hearings shall approve a settlement determined to be in compliance with the requirements established in the Texas Workers' Compensation Act, §4.33(e).
- (f) The director may, within 15 days of the date the settlement was received:
 - (1) approve it by signing it, and marking it with the date signed; or
 - (2) reject it by marking it "Rejected," signing it, and marking it with the date signed.
- (g) The director shall promptly furnish copies of the approved or rejected settlement to all parties by first class mail or personal delivery. A rejected settlement shall be accompanied by a written statement of the reasons for rejection.
- (h) Unless previously expressly rejected by the director of the division of hearings, a settlement is effective and binding on the earlier of:
 - (1) at the close of business day of the date approved by the director of the division of hearings; or
 - (2) the 16th day after the date filed with the director of the division of hearings.

The provisions of this §147.5 adopted to be effective April 25, 1991, 16 TexReg 2097.

§147.6. Settlement Conference.

The director of the division of hearings may reject a settlement by an unrepresented employee pending an informal conference between the employee and an employee of the commission.

The provisions of this §147.6 adopted to be effective April 25, 1991, 16 TexReg 2097.

§147.7. Effect on Previously Entered Decisions and Orders.

- (a) A written agreement on one or more disputed issues addressed in a presiding officer's decision or order, including an interlocutory order, sets aside the decision or order, as it relates to the agreement, on the date the agreement is approved by the presiding officer.
- (b) A settlement filed before a presiding officer's decision becomes final sets aside a presiding officer's decision or order, except for an interlocutory order, on the date received by the director of the division of hearings. If the director of the division of hearings rejects the settlement, the decision or order shall be immediately reentered.
- (c) A settlement sets aside an interlocutory order on the date the settlement becomes effective.

The provisions of this §147.7 adopted to be effective April 25, 1991, 16 TexReg 2097.

§147.8. Withdrawal from Settlement.

- (a) A party to a settlement may withdraw from the settlement at any time before it becomes effective by notifying the division of hearings in the commission's Austin office.
- (b) The employee's death shall be considered the employee's withdrawal from the settlement regardless of notice to the division of hearings.

The provisions of this §147.8 adopted to be effective April 25, 1991, 16 TexReg 2097.

§147.9. Requirements for Agreements and Settlements.

- (a) An agreement or settlement may not:
 - (1) limit or terminate the employee's right to medical benefits; or
 - (2) provide for commutation of any unaccrued income benefits, except for advances, accelerations, or payments of impairment income benefits, as provided by the Texas Workers' Compensation Act (the Act), §4.27.
- (b) An agreement resolving a dispute about impairment rating, or a settlement:
 - (1) may not be made until the employee has reached maximum medical improvement; and
 - (2) must adopt an impairment rating established by a doctor pursuant to the Act, §4.26.
- (c) A settlement:
 - (1) must establish that the carrier is liable for the claim;
 - (2) must establish that the claim is compensable;

- (3) must establish that the employee is entitled to benefits;
- (4) must incorporate by reference all prior oral and written agreements between the parties; and
- (5) must state that a final resolution has been reached on all issues in the claim, and that the parties waive their rights to subsequent commission proceedings, other than those necessary to resolve medical benefit disputes or to enforce compliance with the terms of the settlement.

The provisions of this §147.9 adopted to be effective April 25, 1991, 16 TexReg 2097.

§147.10. Commutation of Impairment Income Benefits.

- (a) An employee may elect to commute impairment income benefits when the employee has returned to work for at least three months, earning at least 80% of the employee's average weekly wage.
- (b) A request to commute must:
 - (1) be in writing on a commission-prescribed form;
 - (2) state the date the employee reached maximum medical improvement; the impairment rating; and the employee's weekly impairment income benefit;
 - (3) be sent to the carrier; and
 - (4) be filed with the commission field office managing the claim.
- (c) The commission-prescribed form shall include a warning to the employee that commutation terminates the employee's entitlement to additional income benefits for the injury.
- (d) The employee may contact the commission field office managing the claim to obtain or verify the information required to be included in the request.
- (e) The carrier shall send a notice of approval or denial of the request to the employee no later than 14 days after receipt of the request. A notice of approval shall include payment of the commuted impairment income benefits. A notice of denial shall include the carrier's reasons for denial. A copy of the notice shall be filed with the commission field office managing the claim.
- (f) If the carrier denies the request, the employee may request the commission to schedule a benefit review conference to resolve the issue, as provided by §141.1 of this title (relating to Requesting and Setting a Benefit Review Conference).

The provisions of this §147.10 adopted to be effective December 16, 1991, 16 TexReg 7018.

§147.11. Notification of Commission of Proposed Judgments and Settlements.

- (a) The party who requested judicial review under Chapter 410, Subchapter F or G shall file a copy of any proposed judgment or settlement with the executive director of the Commission by filing it with the General Counsel of the Commission not later than the 30th day before the date on which the court is scheduled to enter the judgment or approve the settlement. A proposed judgment or settlement must be sent by certified mail return receipt requested.
- (b) The insurance carrier or its representative shall file with the General Counsel of the Commission a copy of a final judgment or settlement not later than the 10th day after a court approves the agreement or settlement.

- (c) For suits seeking judicial review filed under Chapter 410, Subchapter F (regarding Judicial Review General Provisions) or Subchapter G (regarding Judicial Review of Issues Regarding Compensability or Income or Death Benefits), on or after September 1, 1997, a judgment or settlement which is not filed with the commission in compliance with subsections (a) and (b) of this section is void.
- (d) A party who violates this section may be subject to an administrative penalty, including a penalty of up to \$1,000 pursuant to the Texas Labor Code, §415.0035 or up to \$10,000 pursuant to the Texas Labor Code, §415.021 for repeated violations.

The provisions of this §147.11 adopted to be effective February 2, 1996, 21 TexReg 514; amended to be effective December 2, 1997, 22 TexReg 11714.

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